

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing or service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Derek Braziel

(b) County of Residence of First Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Government Employees Insurance Company

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

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Attorneys (If Known)

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APR 2003

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

DEF	DEF
<input type="checkbox"/> 1 Citizen of This State	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State
<input type="checkbox"/> 2 Citizen of Another State	<input type="checkbox"/> 2 Incorporated and Principal of Business In Another State
<input type="checkbox"/> 3 Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 Foreign Nation
<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Health Care Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or 5 Reopened

Transferred from another district
(specify) 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judge

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.
Do not cite jurisdictional statutes unless diversity.)

Declaratory Judgment 28 USC 2001. Plaintiff seeks declaratory judgment declaring that its website does not violate Lanham Act.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** Over \$75,000.00 **CHECK YES only if demanded in complaint:**
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE Barbara Lynn DOCKET NUMBER 3:03-CV-00620

DATE

SIGNATURE OF ATTORNEY OF RECORD

417/03

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFFP _____ JUDGE _____ MAG. JUDGE _____

APR - 8 2003

CLERK, U.S. DISTRICT COURT
By _____ DeputyIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISIONDEREK BRAZIEL,
Plaintiff,

v.

GOVERNMENT EMPLOYEES
INSURANCE COMPANY,
Defendant.§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____

3:03-cv-00710-G

ORIGINAL COMPLAINT

Plaintiff Derek Braziel (“Braziel”) files this Original Complaint against Defendant Government Employees Insurance Company (“GEICO”), and would show the Court as follows:

I.
INTRODUCTION

1. GEICO is an insurance company. Braziel is a lawyer who has brought a collective action lawsuit against GEICO under the Fair Labor Standards Act (“FLSA”) for GEICO’s failure to pay wages.¹ Braziel has set up an informational website for his clients using the domain name “www.geicoovertimelawsuit.com.” GEICO is demanding that Braziel cease using this domain and transfer ownership of the domain to GEICO. Braziel files this declaratory judgment action seeking a declaration that he has the right to own and use this domain name.

II.
PARTIES

2. Braziel is a Dallas lawyer who represents GEICO employees in an FLSA lawsuit brought in this Court. Braziel is a citizen of Texas.

¹ The FLSA lawsuit is currently pending in this Court. *Amie Owens, Individually and on Behalf of All Others Similarly Situated v. Government Employees Insurance Agency a/k/a GEICO*; Civil Action No. 3:03-CV-00620; In the United States District Court for the Northern District of Texas, Dallas Division.

3. GEICO is a Maryland corporation with its principal place of business in Washington, D.C. GEICO may be served with process through its registered agent for service of process, George W. Rogers, 4201 Spring Valley Road, Dallas, Texas 75244.

III.
JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331, 1332, 1338, 1367, and 2201.

5. Venue is proper in the Northern District of Texas pursuant to 28 U.S.C. § 1391.

IV.
FACTUAL BACKGROUND

6. Braziel is a lawyer who represents GEICO employees who were not properly paid wages. Braziel has filed a collective action under the FLSA on behalf of all similarly situated GEICO employees. The collective action is pending in this Court. *Amie Owens, Individually and on Behalf of All Others Similarly Situated v. Government Employees Insurance Agency a/k/a GEICO*; Civil Action No. 3:03-CV-00620; In the United States District Court for the Northern District of Texas, Dallas Division. To keep his clients informed of the litigation against GEICO, Braziel has set up an informational website regarding the case. The website contains information on the FLSA in general and the lawsuit against GEICO in particular. The website uses the domain name “www.geicoovertimelawsuit.com.”

7. On April 3, 2003, GEICO, through the law firm of Arnold & Porter, wrote Braziel a cease and desist letter. A copy of this letter is attached as Exhibit A. GEICO demanded that Braziel “cease all use of this mark and refrain from such use in the future, and unconditionally transfer to GEICO the ‘geicoovertimelawsuit.com’ domain name.” Ex. A at 1.

GEICO alleges that the website violates §§ 32 and 43 of the Lanham Act and the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d). *Id.* at 1-2.

8. Braziel's use of the letters "g-e-i-c-o" in its domain name does not violate any state or federal law because there is no likelihood of confusion. It is clear that the website has no connection with GEICO and that it is in fact owned by someone suing GEICO. Even the most casual viewer of the website will understand that GEICO in no way sponsors or is affiliated with the website. There is even less likelihood of confusion because Braziel has placed a disclaimer on his website that informs viewers that the website is not related to GEICO. The disclaimer even provides a link to GEICO's official website for those interested in purchasing insurance services.

**V.
DECLARATORY JUDGMENT**

9. Braziel incorporates by reference all allegations raised in prior paragraphs.

10. Braziel seeks a declaratory judgment declaring that his use of the domain name "www.geicoovertimelawsuit.com" does not violate §§ 32 and 43 of the Lanham Act, the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), or the Texas Anti-Dilution Statute, TEX. BUS. & COMM. CODE § 16.29.

**VI.
ATTORNEYS' FEES**

11. Braziel incorporates by reference all allegations raised in prior paragraphs.

12. Braziel seeks all reasonable and necessary attorneys' fees related to this declaratory judgment action.

VII.
PRAYER

Braziel prays that a summons be issued to GEICO requiring it to appear and answer herein, and that after trial Braziel have a declaratory judgment declaring that his use of the domain name “www.geicoovertimelawsuit.com” does not violate §§ 32 and 43 of the Lanham Act, the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), or the Texas Anti-Dilution Statute, TEX. BUS. & COMM. CODE § 16.29. Braziel also seeks reasonable attorneys’ fees and all other and further relief to which he may show itself justly entitled.

Respectfully submitted,



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